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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,918	10/01/2001	Horst Mueller	112740-335	7130
29177	7590	02/27/2006	EXAMINER	
BELL, BOYD & LLOYD, LLC P. O. BOX 1135 CHICAGO, IL 60690-1135			MATTIS, JASON E	
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/937,918	Applicant(s) MUELLER, HORST	
	Examiner Jason E. Mattis	Art Unit 2665	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-20 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-20 is/are allowed.
- 6) ☒ Claim(s) 10-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/01</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

In this specific case there was a Preliminary Amendment filed at the time of the original filing. The Preliminary Amendment stated that claims 1-8 were cancelled and new claims 9-16 had been added; however, the original set of claims included claims 1-12. Therefore, the next claim number that should have been used for the claim in the Preliminary Amendment is claim number 13. Further it is noted that there is not statement indicating that the original claims 10-12 have been cancelled; therefore these original claims are still pending.

Misnumbered claims 9-16 of the claim filed in the Preliminary Amendment been renumbered as claims 13-20 respectively.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 10-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Each of these claims is a dependent claim that relies on now cancelled claim 9. Since these claims are currently incomplete, it is unclear how they should be examined. It is recommended that these claims be cancelled or amendment such that they do not depend on a cancelled claim.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 13-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 13-17 are directed to a data structure, and, thus, contains non-statutory subject matter. To be a statutory process claim, the claim must either have independent physical acts, manipulation of data representing physical objects or activities, or be limited to a practical application by producing a concrete, tangible, and useful result. These claims merely state the structure of a data frame. It is recommended that these claims be amended such that the data frame structure is used in some physical manner. For example, claims 18-20 each contain a limitation that the

data frame is transferred in a data signal. Since these claims specify that the data is transferred as a data signal between two transmission units, they are statutory subject matter.

Allowable Subject Matter

5. Claims 18-20 allowed.

6. The following is an examiner's statement of reasons for allowance:

Claims 18-20 are allowable over the prior art of record since none of the prior art discloses or renders obvious a data frame having 1360 bits with six sub-frames of equal data volume with a first and second stuffing bit at the start of each of the second to sixth sub-frames and with a first and second variable stuffing bit in the sixth sub-frame.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bird (U.S. Pat. 6157659), Cantwell et al. (U.S. Pat. 5689535),

Travers et al. (U.S. Pat. 5251217), Harley, Jr. et al. (U.S. Pat. 4939723), and Angell et al. (U.S. Pat. 4924459) each disclose a system and method of multiplexing data streams of different rates into one common data stream with the use of stuff bits.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason E. Mattis whose telephone number is (571) 272-3154. The examiner can normally be reached on M-F 8AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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